

ASSEMBLY BILL

No. 1717

Introduced by Assembly Member Dickinson

February 16, 2012

An act to amend Section 44830.1 of the Education Code, and to amend Section 1555 of the Health and Safety Code, relating to certificated school district employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 1717, as introduced, Dickinson. Certificated school district employees.

(1) Existing law requires the State Department of Social Services to notify the local director of social services and the probation officer of the county in which a community care facility is located whenever the license, registration, or special permit issued to the community care facility is suspended, revoked, temporarily suspended, forfeited, canceled, or expired.

Existing law requires the Department of Justice to notify a school district if it discovers that an individual who is an applicant for employment for a position requiring certification qualifications has been convicted of specified offenses and requires a school district employer to request subsequent arrest service from the Department of Justice, as specified.

This bill would require the State Department of Social Services to notify the Department of Justice whenever an accusation or complaint is made against a holder of a license, registration, or special permit for a community care facility alleging grounds for suspension, revocation, or temporary suspension of the license, registration, or special permit.

The bill would require the Department of Justice to provide to a school district information pertaining to an accusation or complaint alleging grounds for suspension, revocation, or temporary suspension of a license, registration, or special permit for a community care facility if the accusation or complaint is made against a certificated school employee who is also the holder of that license, registration, or special permit. The bill would require the department to provide the information within 10 days of receipt of the information.

(2) The bill also would make technical, nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 44830.1 of the Education Code is
2 amended to read:

3 44830.1. (a) In addition to any other prohibition or provision,
4 ~~no~~ a person who has been convicted of a violent or serious felony
5 shall *not* be hired by a school district in a position requiring
6 certification qualifications or supervising positions requiring
7 certification qualifications. A school district shall not retain in
8 employment a current certificated employee who has been
9 convicted of a violent or serious felony, and who is a temporary
10 employee, a substitute employee, or a probationary employee
11 serving before March 15 of the employee's second probationary
12 year. If any conviction is reversed and the formerly convicted
13 person is acquitted of the offense in a new trial, or the charges are
14 dismissed, this section does not prohibit his or her employment
15 thereafter.

16 (b) This section applies to any violent or serious offense ~~which~~
17 *that*, if committed in this state, would have been punishable as a
18 violent or serious felony.

19 (c) (1) For purposes of this section, a violent felony is any
20 felony listed in subdivision (c) of Section 667.5 of the Penal Code
21 and a serious felony is any felony listed in subdivision (c) of
22 Section 1192.7 of the Penal Code.

23 (2) For purposes of this section, a plea of nolo contendere to a
24 serious or violent felony constitutes a conviction.

25 (3) For purposes of this section, the term "school district" has
26 the same meaning as defined in Section 41302.5.

1 (d) When the governing board of any school district requests a
2 criminal record summary of a temporary, substitute, or probationary
3 certificated employee, two fingerprint cards, bearing the legible
4 rolled and flat impressions of the person's fingerprints together
5 with a personal description and the fee, shall be submitted, by any
6 means authorized by the Department of Justice, to the Department
7 of Justice.

8 (e) When the Department of Justice ascertains that an individual
9 who is an applicant for employment by a school district has been
10 convicted of a violent or serious felony, or for purposes of
11 implementing the prohibitions set forth in Section 44836, any sex
12 offense, as defined in Section 44010, or any controlled substance
13 offense, as defined in Section 44011, *or is the subject of*
14 *information received pursuant to subdivision (b) of Section 1555*
15 *of the Health and Safety Code, the department Department of*
16 *Justice* shall notify the school district of the criminal *or other*
17 information pertaining to the applicant. The notification shall be
18 delivered by telephone or electronic mail to the school district.
19 The notification to the school district shall cease to be made once
20 the statewide electronic fingerprinting network is returning
21 responses within three working days. The Department of Justice
22 shall send by first-class mail or electronic mail a copy of the
23 criminal *or other* information to the Commission on Teacher
24 Credentialing. The Department of Justice may charge a reasonable
25 fee to cover the costs associated with processing, reviewing, and
26 supplying the criminal record summary *or other information*
27 required by this section. ~~In no event shall the~~ *The fee shall not*
28 exceed the actual costs incurred by the ~~department~~ *Department of*
29 *Justice.*

30 (f) Notwithstanding subdivision (a), a person shall not be denied
31 employment or terminated from employment solely on the basis
32 that the person has been convicted of a violent or serious felony
33 if the person has obtained a certificate of rehabilitation and pardon
34 pursuant to Chapter 3.5 (commencing with Section 4852.01) of
35 Title 6 of Part 3 of the Penal Code.

36 (g) Notwithstanding subdivision (f), a person shall not be denied
37 employment or terminated from employment solely on the basis
38 that the person has been convicted of a serious felony that is not
39 also a violent felony if that person can prove to the sentencing
40 court of the offense in question, by clear and convincing evidence,

1 that he or she has been rehabilitated for the purposes of school
2 employment for at least one year. If the offense in question
3 occurred outside this state, ~~then~~ the person may seek a finding of
4 rehabilitation from the court in the school district in which he or
5 she is a resident.

6 (h) Notwithstanding any other ~~provision~~ of law, when the
7 Department of Justice notifies a school district by telephone or
8 electronic mail that a current temporary employee, substitute
9 employee, or probationary employee serving before March 15 of
10 the employee's second probationary year, has been convicted of
11 a violent or serious felony, that employee shall immediately be
12 placed on leave without pay. When the school district receives
13 written electronic notification of the fact of conviction from the
14 Department of Justice, the employee shall be terminated
15 automatically and without regard to any other procedure for
16 termination specified in this code or school district procedures
17 unless the employee challenges the record of the Department of
18 Justice and the Department of Justice withdraws in writing its
19 notification to the school district. Upon receipt of written
20 withdrawal of notification from the Department of Justice, the
21 employee shall immediately be reinstated with full restoration of
22 salary and benefits for the period of time from the suspension
23 without pay to the reinstatement.

24 (i) (1) An employer shall request subsequent arrest service from
25 the Department of Justice as provided under Section 11105.2 of
26 the Penal Code.

27 (2) *Within 10 days of receipt of information provided to the*
28 *Department of Justice pursuant to Section 1555 of the Health and*
29 *Safety Code subsequent to employment of a person, the Department*
30 *of Justice shall provide to a school district employer notification*
31 *of that information and copies of all records provided to the*
32 *Department of Justice pertaining to the accusation or complaint,*
33 *in compliance with all applicable federal and state privacy laws.*
34 *The notification shall be delivered to the school district employer*
35 *in the same manner as set forth in subdivision (e).*

36 (j) Notwithstanding Section 47610, this section applies to a
37 charter school.

38 (k) This section shall not apply to a certificated employee who
39 applies to renew his or her credential when both of the following
40 conditions have been met:

1 (1) The employee's original application for credential was
2 accompanied by that person's fingerprints.

3 (2) The employee has either been continuously employed in
4 one or more public school districts since the issuance or last
5 renewal of his or her credential or his or her credential has not
6 expired between renewals.

7 ~~(l) Nothing in this section shall~~ *This section does not* prohibit
8 a county superintendent of schools from issuing a temporary
9 certificate to any person described in paragraph (1) or (2) of
10 subdivision (k).

11 (m) ~~This section shall~~ *does not* prohibit a school district from
12 hiring a certificated employee who became a permanent employee
13 of another school district as of October 1, 1997.

14 (n) All information obtained from the Department of Justice is
15 confidential. Every agency handling Department of Justice
16 information shall ensure the following:

17 ~~(1) No recipient may~~ *A recipient shall not* disclose its contents
18 or provide copies of information.

19 (2) Information received shall be stored in a locked file separate
20 from other files, and shall only be accessible to the custodian of
21 records.

22 (3) Information received shall be destroyed upon the hiring
23 determination in accordance with subdivision (a) of Section 708
24 of Title 11 of the California Code of Regulations.

25 (4) Compliance with destruction, storage, dissemination,
26 auditing, backgrounding, and training requirements as set forth in
27 Sections 700 through 708, inclusive, of Title 11 of the California
28 Code of Regulations and Section 11077 of the Penal Code,
29 governing the use and security of criminal offender record
30 information, is the responsibility of the entity receiving the
31 information from the Department of Justice.

32 SEC. 2. Section 1555 of the Health and Safety Code is amended
33 to read:

34 1555. (a) Whenever a license, registration, or special permit
35 issued under this chapter for a community care facility is
36 suspended, revoked, temporarily suspended, forfeited, canceled,
37 or expires, the department shall provide written notice of that
38 occurrence within 10 days to the local director of social services
39 and the probation officer of the county in which the community
40 care facility is located.

1 **(b)** *Whenever an accusation or complaint is made against a*
2 *holder of a license, registration, or special permit issued under*
3 *this chapter for a community care facility alleging grounds for*
4 *suspension, revocation, or temporary suspension pursuant to*
5 *Section 1550, the department shall provide written notice of that*
6 *occurrence within 10 days to the Department of Justice, and copies*
7 *of records pertaining to the accusation or complaint, including*
8 *complaints, statements, and investigative reports, in compliance*
9 *with all applicable federal and state privacy laws.*